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SUPREME COURT
STATE OF WASHINGTON

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SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	
)	
Respondent,)	No. 81921-1
)	
vs.)	
)	STATEMENT OF ADDITIONAL
LEO BUNKER, et al,)	AUTHORITIES
)	
Appellant,)	
)	

Pursuant to RAP 10.8, The State respectfully cites the following as additional authority regarding the rule of lenity:

1. *In re Post Sentencing Review of Charles*, 135 Wn.2d 239, 250 n. 4, 955 P.2d 798 (1998), *superseded on other grounds by statute as recognized in State v. Thomas*, 150 Wn.2d 666, 672, 80 P.3d 168 (2003):

The rule of lenity has been adhered to by this Court consistently and recently, and we have never indicated it is abrogated. However, the rule of lenity does not require forced, narrow or overstrict construction if it defeats the intent of the Legislature. *State v. Carter*, 89 Wash.2d 236, 242, 570 P.2d 1218 (1977). We have explained that the rule only applies when a penal statute is ambiguous and legislative intent is insufficient to clarify the ambiguity. In re

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[Pers. Restraint of] Sietz, 124 Wash.2d 645, 652, 880 P.2d 34 (1994); see also Moskal v. United States, 498 U.S. 103, 107-08, 111 S.Ct. 461, 112 L.Ed.2d 449 (1990). A statute is not ambiguous for purposes of the rule of lenity simply because there is a division of judicial authority over its proper construction. Reno v. Koray, 515 U.S. 50, 64-65, 115 S.Ct. 2021, 132 L.Ed.2d 46 (1995).

2. *State v. Coria*, 146 Wn.2d 631, 639, 48 P.3d 980 (2002) ("[T]he rule of lenity does not preclude ordinary statutory construction.").

3. *City of Seattle v. Winebrenner*, 167 Wn.2d 451, 469, 219 P.3d 686 (2009) (Madsen, J., concurring) ("The rule of lenity is the last, not the first, resort when a criminal statute must be construed.").

Dated this 22 February 2010.

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